

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14104, of Angelo A. Puglisi, pursuant to Sub-section 8207.2 of the Zoning Regulations, for a special exception under Paragraph 4101.41 to continue the use of a parking lot and for a variance from Sub-paragraph 4101.413 to permit all-day commuter parking in an HR/SP-2 District at the premises 721-23 - 6th Street, N.W., (Square 486, Lots 11 and 12).

HEARING DATES: March 14 and March 28, 1984
DECISION DATE: April 4, 1984

Application No. 14111, of 500 H Street Limited Partnership, pursuant to Sub-section 8207.2 and Paragraph 8207.11 of the Zoning Regulations, for a special exception under Paragraph 4101.41 to continue to operate a parking lot and for a variance from the prohibition against all day commuter parking (Sub-paragraph 4101.413) in an HR/SP-2 District at the premises 732-38 - 5th Street, N.W., (Square 486, Lots 21-25).

HEARING DATE: March 28, 1984
DECISION DATE: April 4, 1984

FINDINGS OF FACT:

1. Application No. 14104 and 14111, as directed by the Board are consolidated for the purpose of this Order. Both parking lots are in the subject Square 486. The two parking lots are separated from each other by a 16.75 foot wide public alley which parallels 5th and 6th Streets. The lots are operated under the same management with two other parking lots located in the northern half of the subject square. The parking lots are under different ownerships. Both applicants seek their relief through a special exception to continue the use of the parking lot and through a variance to permit all-day commuter parking.

2. The site of application No. 14104 is located on the east side of 6th Street, between G and H Streets, N.W. It is known as 721-723 6th Street, N.W., and is in an HR/SP-2 District.

3. On October 5, 1978, the property was being used as a parking lot under Certificate of Occupancy No. B-100723, which expired on February 8, 1980. The subject property is currently operated as a parking lot pursuant to BZA Order

No. 13803, dated October 26, 1982. The permit expired February 8, 1984.

4. The applicant proposes to continue to operate the lot, and requests a variance from the provisions of Sub-paragraph 4101.413 to permit all-day commuter parking.

5. The subject property is fifty feet wide and eighty-five feet deep. The subject lot accommodates twenty vehicles, parked five abreast in four rows. Access to the lot is from the 16.75 foot wide public alley which parallels 6th Street. The alley connects to G and H Streets, and, through a thirty foot wide east-west alley, to 5th and 6th Streets.

6. The site of application No. 14111 is located on the west side of 5th Street, between G and H Streets, N.W. It is known as 732-738 5th Street, N.W., and is in an HR/SP-2 District.

7. The subject property is currently operated as a parking lot pursuant to BZA Order No. 13743, dated September 13, 1982. That Order approved use of the lot for parking until March 3, 1984.

8. The applicant propose to continue to operate the lot and request a variance from the provision of Sub-paragraph 4101.413 to permit all-day commuter parking.

9. The subject property is 125 feet wide and eighty-five feet deep, totalling 10,625 square feet. The subject lot accommodates forty-four vehicles, parked eleven abreast in four rows.

10. The subject two parking lots are operated in conjunction with two other parking lots located in the northern half of the subject square 486. All four parking lots are operated by Parking Management, Inc. (PMI). All four parking lots have a long history of approval by the BZA.

11. The immediate neighborhood consists of restaurants, carry-outs, bars and vacant structures. Located nearby are the General Accounting Office, Bergman's Laundry, St. Mary's Church, the three Potomac Buildings which are used as offices by the D. C. Government and the Wah Luck apartment building for the elderly.

12. There is a total of approximately 166 cars on all the lots involved. Approximately fifty percent of that total is rented on a monthly basis. The remaining spaces are available on a daily basis. Many of the monthly spaces are leased by the D.C. Department of General Services as parking for official vehicles.

13. The parking lots are operated between the hours of 7:00 A.M. and 6:00 P.M. Monday through Friday. There is an attendant on duty. At other hours, the lots are left open for use by anyone in the neighborhood except for lot 36 located at the southeast intersection of 6th and H Streets. That parking lot is leased by the Ruby Restaurant. It provides no all-day commuter parking and in the evening hours is reserved only to the customers of the restaurant.

14. The representative of PMI, testified that he had received no complaints about the appearance, maintenance and operation of the subject lot. The Board so finds.

15. The lots are in compliance with all the conditions of the prior orders of the Board.

16. The lots have been operated in the past so as not to create dangerous or objectionable traffic conditions. There is no evidence that conditions have materially changed so as to cause objectionable conditions in the future.

17. The other uses in the near vicinity of the subject parking lots do not generate sufficient patronage to the lots to make them viable operations without the commuter parking.

18. The applicant in application No. 14104, Mr. Puglisi, also owns lots 804, 805, 806, 807 and 808 which are located north of the subject parking lot. Said lots are the subject matter of BZA application No. 14088, granted by the Board on February 1, 1984 and which termination date is December 1, 1985. The parking lots are separated by lot 13 which is improved with a residential structure not owned by Mr. Puglisi. Lot 13 has an area of 2,125 square feet. Mr. Puglisi has been unable to purchase lot 13 since the owner is seeking an unrealistic price for his site. Also, Mr. Puglisi cannot purchase the aforementioned lot owned by the Ruby Restaurant since the owner plans to construct a new restaurant on the site when its lease for its present restaurant located across the street expires.

19. Both applicants are developers. They do not intend to sell their land. The acquisition of the property is not for land holding or speculative activity. Both applicants feel that the current time is not a realistic time for development in the subject area. Both asserted that there has been a tremendous slowdown in development. The slowdown is reflected on 12th and 13th Streets, where office buildings are empty. It is worse in the subject area. Also, interest rates are again increasing. The problem is with the local and national economy. Also, the area east of 12th Street is a depressed area with vacant and boarded up

structures or vacant small lots where structures had previously existed. The Board so finds.

20. A list of uses permitted in the SP or HR/SP-2 Districts either as a matter-of-right or by special exception were read to the applicants. These included a private school, including everything from kindergarten on up, a religious reading room, a community center building, a park, playground, swimming pool or other athletic field operated by a local community organization, an artist studio, a ticket office, a child development center, and any use permitted in an R-5 District, which includes any kind of residential use from single-family to multi-family. It also includes institutional uses, like churches, museums, art galleries, hospitals, clinics, residences for private school teachers, college or university use, office for international organization, non-profit organization, labor union, architect, professional type SP office, a hotel, community based residential facilities, including health care facilities and emergency shelters.

21. In reply to the recited uses, the applicants were of the opinion that a mixed-use project, a moderate sized hotel and SP office use, would be viable projects when the economy recovers not only for them individually but in a joint venture partnership. Other uses such as school uses were not appropriate for the neighborhood as it now exists. There is an absence of recreation space. The general character of the neighborhood as it now exists is not conducive to school or studio uses at the present time. As to residential use, the ground prices paid and the existing financing costs are not conducive for apartment houses or condominiums. Both applicants were of the opinion that a larger assembly of land would be more favorable for a viable development. Neither applicant precluded a possibility of their favoring a joint venture. Another overall controlling factor is that the existing market conditions are unfavorable for a viable SP-2 development.

22. The applicants testified that in their judgement there is no reasonable use of the subject properties at this time other than as a parking lot. Also, they cannot operate as a parking lot restricted only to non-commuter parking. If commuter parking were not allowed, the subject parking lots would be forced to close.

23. Advisory Neighborhood Commission 2C filed no recommendation on the applications.

24. There was no opposition to the applications.

25. The applications were referred to the Office of Planning. No report was filed.

CONCLUSIONS OF LAW AND OPINION:

Based on the record, the Board concludes that the applicants are seeking special exceptions and use variances. As to the special exceptions, the Board concludes that the applicants have substantially complied with the requirements of Paragraph 4101.41 of the Zoning Regulation and that the special exception, as hereinafter conditioned, can be granted as in harmony with the general purpose and intent of the Zoning Regulations and will not tend to affect adversely the use of neighboring property.

As to the use variance, the variance to permit all-day commuter parking, this requires a showing of a hardship upon the owner of the property that arises from the property itself which precludes the owners from reasonably putting the property to a use for which the site is zoned. The Board notes the inability of the applicant in Case No. 14104 to obtain a large enough site of contiguous lots to develop. The Board also notes that in both applications, the total area now available is less than desirable for development in the subject neighborhood. The Board is also not unaware of the current marketing conditions.

The Board further notes that a sizeable position of the subject parking lots is used for commuter parking, that the other uses in the near vicinity of the subject parking lot do not generate short term parking needs and that part of the subject lots in addition to two other adjacent parking lots, operated basically as one unit, are leased to the D.C. Government for official vehicles. The Board is of the opinion that since one part of the subject property is leased for community parking and that the physical location of the parking lot precludes its use by short term parkers. The condition also creates a hardship inherent on the property. The Board concludes that, with the time limitation conditioning the grant herein, the use variance can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zone plan. Accordingly, for all of the above reasons, it is ORDERED that the special exceptions and variances are GRANTED SUBJECT to the following CONDITIONS:

- A. Approval shall be for a period of one year from the date of this order.
- B. All areas devoted to driveways, access lanes, and parking areas shall be maintained with a paving of material forming an all-weather impervious surface.
- C. Bumper stops shall be erected and maintained for the protection of all adjoining buildings.
- D. No vehicle or any part thereof shall be permitted

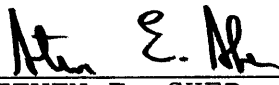
to project over any lot or building line or on or over the public space.

- E. All parts of the lot shall be kept free of refuse or debris and shall be paved or landscaped. Landscaping shall be maintained in a healthy growing condition and in a neat and orderly appearance.
- F. No other use shall be conducted from or upon the premises and no structure other than an attendant's shelter shall be erected or used upon the premises unless such use or structure is otherwise permitted in the zoning district in which the parking lot is located.
- G. Any lighting used to illuminate the parking lot or its accessory building shall be so arranged that all direct rays of such lighting are confined to the surface of the parking lot.

VOTE: 5-0 (Douglas J. Patton, Charles R. Norris, William F. McIntosh, Maybelle T. Bennett and Carrie L. Thornhill to grant).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: JUN 14 1984

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF LICENSES, INVESTIGATIONS AND INSPECTIONS.

14104&14111order/LJP7